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October 30, 1997

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Mass Media Services
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Washington, DC 20554

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OCT 30 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE CLERK

Dear Mr. Caton:

Transmitted on behalf of the Association of Federal Communications Consulting Engineers ("AFCCE") is an original and 14 copies of a Petition for Reconsideration in Docket 96-58.

In addition, a self-addressed stamped envelope is provided for return of the "stamp and receipt" copy.

If any questions should arise concerning this matter, please communicate with the undersigned.

Sincerely,

Cynthia M. Jacobson
Secretary

Enclosures

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Before the
Federal Communications Commission
Washington, DC

OCT 30 1987
Office of the Secretary

In the Matter of)
Amendments of Parts 73 and 74)
of the Commission's Rules to)
Permit Certain Minor Changes in Broadcast) MM Docket 96-58
Facilities Without a Construction Permit)

PETITION FOR RECONSIDERATION

The Association of Federal Communications Consulting Engineers (AFCCE) is an organization that includes members who are registered professional engineers engaged in the practice of consulting engineering or who are communications company engineering executives. The AFCCE was founded in 1948 and has been pleased and honored to share its professional experience and insight with the Federal Communications Commission (FCC).

The AFCCE has reviewed the Report and Order in MM Docket 96-58, and is greatly troubled by footnotes 5 and 21

in paragraphs 26, respectively. Both footnotes read in part as follows:

"If the Federal Aviation Administration ("FAA") has issued a determination limiting the ERP of the station to a specific value due to electromagnetic interference (EMI) concerns, the licensee or permittee must obtain a new written determination of no hazard from that agency for the proposed power level prior to implementing the power increase and filing the license application with the FCC."

AFCCE strongly objects to the footnotes for the following reasons:

1. The FCC is the expert agency to determine whether electromagnetic interference exists to facilities. It is the FCC's responsibility to determine electromagnetic interference, not the FAA.
2. This interference potential requirement was not a part of the Notice of Proposed Rule Making. The FCC must provide the basic information which it is considering, for comment and consideration.
3. We believe the FAA computer program is in error and predicts electromagnetic interference when, in practice, none actually occurs.

4. The FAA treats itself differently than other spectrum users. "Safety" is not the issue, as the FAA itself chooses to supersede the program results by actual testing of the FAA navigational facility.¹

5. The FAA method of interference determination has never been subjected to peer review or scrutiny for accuracy and completeness, a procedure quite contrary to normal practice. In addition, the alleged interference has never been documented by the FAA, despite repeated requests to do so. Furthermore, the FAA computer program is believed to be in its fifth revision, which strongly suggests incorrect data or computational problems in previous versions. Most telling of all, is that the program is ignored by the Agency when it commissions its own facilities, even though interference is predicted.

The FCC is the expert agency to determine when broadcast stations should be evaluated for electromagnetic interference potential to other broadcast stations or spectrum users. This function should not be delegated to the FAA, an agency which neither has the expertise nor has been empowered to regulate broadcast stations.

¹ In Canada, Transport Canada does permit broadcasters to demonstrate non-interference by actual measurement

For this reason, it is not possible for the FCC to adequately administer its duties when another agency specifies what it believes is the appropriate power to employ so as to avoid "suspected" interference. What expertise does the FAA possess for determining the operating facilities and electromagnetic capability of broadcast stations?

The FCC must retain its mandated authority to regulate broadcast spectrum matters.

Notice of this notification requirement to the FAA was not provided in the Notice of Proposed Rule Making. It is incumbent on the Commission to explain its rules and policies and to receive and evaluate comment regarding them. If the Commission believes it is obligated to employ FAA interference determinations, it should as a minimum scrutinize the method proposed for determining interference and elicit comment on the efficacy of its use. The Commission should not blindly accept a procedure of which it has no knowledge and which has not been tested and scrutinized.

It is the Association's strong belief that the FAA's computer program yields unrealistic interference results. The program predicts interference when none actually exists. For example, the FAA computer program predicts severe interference to certain facilities at National Airport in Washington. How then is it possible

the facilities at National continue to be used when a so called safety issue is involved? The answer is quite simple. The FAA has determined, based on its flight test program, that no interference exists.² What does that say regarding the FAA program?

The FAA treats itself differently when determining the potential for interference than it does for other users. "Safety" is obviously not an issue. If the FAA computer program predicts interference when none in fact exists, as proved by FAA flight tests, it is totally unfair and ridiculous to claim 'safety' as the issue.

Another example is the new Denver, Colorado airport which was to open, and severe interference was predicted by the FAA computer program to aircraft approaching from the west. The FAA simply resolved the "safety" problem by performing "test flights" in which no interference was detected. Otherwise, the particular navigation aid under test could not be used.

The FAA method of interference determination has never been subject to the light of reality. The FAA has neither asked, nor permitted, comment regarding the efficacy of its program; however, if its own testing

² The FAA has claimed that low altitude interference exists on one approach and it subsequently raised the minimum altitude on that procedure. This does not answer the basic question of predicted interference on numerous other approaches which, in reality, does not exist.

refutes its results, why would any sensible persons rely on results obtained from that program's use?

In addition to a faulty computer program, it is believed that the interference potential to aircraft receivers and navigational equipment has been greatly exaggerated. Furthermore, the FAA has never supplied information regarding situations which it claims to be interference problems. What is the interference mechanism? How did it affect the aircraft? Was the problem safety related? These questions remain unanswered to this day.

Note also that the FAA program is believed to be in its fifth version. If this program is to be used, it should yield accurate and credible results from its inception? Why must the broadcast industry be the "beta site" for a faulty program?

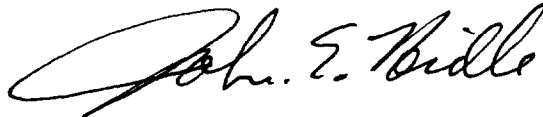
Finally, even the FAA chooses to ignore its interference predictions if it chooses to do so. Shouldn't broadcasters expect at least equal treatment?

The requirements of footnotes 5 and 21 do not belong in the FCC's notice.³ If this is indeed a problem, the FCC should begin an inquiry or Notice of Proposed Rule Making to consider integration of FAA interference concerns

³ The determination of interference by the FAA model is also an inappropriate factor for determining whether an FM allotment should be retained or deleted. This potential procedure in MM Docket No. 97-196 (RM-9151) is believed to be totally inappropriate and objectionable to AFCCE for reasons stated herein.

into FCC rules. The FCC should not abrogate its
responsibility.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "John E. Hidle". The signature is fluid and cursive, with a large initial "J" and "H".

John E. Hidle, P.E.
President, AFCCE

October 30, 1997